IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 24TH JULY 2007 / 2ND SRAVANA 1929

Bail Appl..No. 4384 of 2007()

CRIME NO. 191/07 OF KADUTHURUTHY POLICE STATION
AGAINST THE JUDGEMENT/ORDER IN BA.3810/2007

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PETITIONERS/ACCUSED 1 & 2

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1. M.D.THANUJA, D/O.P.B.USHA,
PURATHUKARAN HOUSE, AZAD ROAD, KALOOR,
ERNAKULAM VILLAGE, KANAYANNUR TALUK,
ERNAKULAM DIST.

2. P.B.USHA, W/O.DEVADAS, PURATHUKARAN
HOUSE, AZAD ROAD, KALOOR, ERNAKULAM VILLAGE,
KANAYANNUR TALUK, ERNAKULAM DIST.

BY ADV. SRI.C.P.PEETHAMBARAN

RESPONDENTS: COMPLAINANT1

STATE OF KERALA,
REPRESENTING STATION HOUSE OFFICER,
KADUTHURUTHY POLICE STATION,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 24/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 4384 of 2007

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Dated this the 24th day of July, 2007

O R D E R

Application for anticipatory bail. The petitioners are accused 1 and 2 - daughter and mother. A crime has been registered against them raising allegations under Section 420 I.P.C. That crime is registered on the basis of a private complaint filed by the defacto complainant before the Magistrate, which was referred to the police under Section 156(3) Cr.P.C. Investigation is in progress. The petitioners apprehend imminent arrest.

2. Shorn of unnecessary details, the crux of the allegations can be ascertained from paragraph 9 of the complaint, which is produced as Annex.A1. There was an agreement between the complainant and the accused. On the basis of the said agreement, properties have been purchased in the name of accused 1 and 2. In connection with such purchase, the complainant had to spent an amount exceeding Rs. 8 lakhs, towards which only an amount of Rs.3.2 Lakhs had been paid and the balance exceeding Rs.5 lakhs is payable. This amount is not paid inspite of several requests. This appears to be the crux of the dispute.

2. The learned counsel for the petitioners submits that unnecessary and false allegations have been made to coerce the petitioners to settle the disputes with the complainant. It is submitted that a complaint had already been filed by the second accused, in respect of which a crime has been registered before the Central Police Station, Ernakulam. The complainant was granted anticipatory bail. Purely as a retaliation against that complaint the present complaint has been filed, submits the counsel.

3. The learned counsel for the petitioners prays, the learned Prosecutor does not seriously oppose the said prayer and I am satisfied in the light of the facts and circumstances which have been broadly indicated earlier, that this is a fit case where anticipatory bail can be granted to the petitioners, subject to appropriate conditions. Such conditions can be imposed which shall ensure the interests of a fair, efficient and expeditious investigation.

4. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioners shall surrender before the learned Magistrate on 4.8.2007 at 11 a.m. The learned Magistrate shall release the petitioners on

regular bail on condition that the petitioners execute bonds for Rs.50,000/- (Rupees fifty thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 5 p.m. on 5.8.2007 and thereafter as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioners do not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 4.8.07 and the police shall be at liberty thereafter to arrest the petitioners and deal with them in accordance with law.

(d) If the petitioners were arrested prior to his surrender on 4.8.2007 as directed in clause (1) above, they shall be released from custody on their executing bonds for Rs.50,000/- without any surety undertaking to appear before the learned Magistrate on 4.8.2007.

(R. BASANT)
Judge

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